

November 28, 2005

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Re: **VoIP E911 Compliance Report (November 28, 2005)**
Yak Corporation; WC Docket No. 05-196

Dear Secretary Dortch:

Yak Communications (America), Inc. ("Yak"), through its undersigned counsel and pursuant to Commission Rule 9.5(f), as adopted by the Commission's *VoIP E911 Order*¹ concerning the enhanced 911 ("E911") service requirements and conditions applicable to interconnected Voice over Internet Protocol ("VoIP") service providers, submits this Compliance Report ("Report") to advise the Commission of the status of Yak's efforts to comply with the Commission's VoIP E911 Rules.²

Yak is owned by Yak Communications Inc., a Florida incorporated telecommunications company, that offers a full array of local, long distance, calling card, and cellular services to residential and small and medium business customers in North America. Yak's services are primarily offered in Canada, through a subsidiary company, but it has recently expanded its operations to include portions of the United States as well. Yak offers residential long distance, calling card and cellular services (two-stage dialing for long distance from cellular phones) throughout the continental United States. In addition to conventional telephony services, Yak

¹ *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking 20 FCC Rcd. 10245 (2005) ("*VoIP E911 Order*").

² Pursuant to the Commission's prior Public Notices, Yak has filed four status reports concerning the Company's efforts to notify its customers of the limitations associated with the Company's VoIP 911 service, and to obtain affirmative acknowledgments from those subscribers stating that they fully understand those limitations. These reports were filed in the above-referenced docket on August 10, September 1, September 22, and October 25, 2005.

November 28, 2005

Page 2

also has begun offering a VoIP product that may be used by customers at either fixed or portable locations.

As required by the Commission's rules, and consistent with the Public Notice issued by the Enforcement Bureau on November 7, 2005³ (the "Public Notice"), this Report details Yak's efforts to provide E911 service to customers in compliance with Commission Rule 9.5(b) and (c), and comply with the registered location requirements of Commission Rule 9.5(d). As requested by the Enforcement Bureau in the Public Notice, the Company states as follows:

- 1) **A quantification, on a percentage basis, of the number of subscribers to whom the Company is able to provide 911 service in compliance with the rules established in the *VoIP 911 Order*.**

The Company currently provides two-way interconnected VoIP service to 163 customers and is still in the process of securing 911 services for those customers. The Company has contracted with a wholesale VoIP provider, CommPartners, to provide the Company with the underlying VoIP network services, including 911 services. The Company is in the process of interconnecting with CommPartners and expects to have the interconnection completed by January 2006. In the interim, the Company has stopped marketing and accepting any new two-way interconnected VoIP customers. The Company will not re-commence these marketing activities until it is interconnected with CommPartners, and will do so only in those areas in which it has achieved full E911 compliance.

As of January 2006, the Company expects to provide VoIP E911 service in compliance with the rules established in the *VoIP E911 Order* to approximately 71% of the Company's interconnected VoIP subscribers. For customers that do not have access to a 911 service that complies with the *VoIP E911 Order*, Yak, through CommPartners, plans to offer an interim 911 service that provides for 10-digit routing of 911 calls to the appropriate PSAP until such time as a VoIP E911 solution is deployed to Yak's customer's base. Yak is working to have the CommPartners 10-digit routing solution in place by January 2006 as well. .

- 2) **A detailed statement as to whether the Company is transmitting, as specified in Paragraph 42 of the *VoIP 911 Order*, "all 911 calls to the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority utilizing the Selective Router, the trunk line(s) between the Selective Router and the PSAP, and such other elements of the Wireline E911 Network as are necessary in those areas where Selective Routers are utilized."**

³ Enforcement Bureau Outlines Requirements of November 28, 2005 Interconnected Voice Over Internet Protocol 911 Compliance Letters, WC Docket Nos. 04-36 and 05-196, Public Notice, DA 05-2945 (rel. Nov. 7, 2005).

November 28, 2005

Page 3

As detailed in response to Item 1, as of January 2006, Yak estimates that for approximately 71%] of its customers, Yak's third-party solution provider, CommPartners, expects to be able to transmit 911 calls to the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority utilizing the selective router, the trunk lines between the selective router and the PSAP, and such other elements of the Wireline E911 Network as are necessary in those areas where selective routers are utilized.

3) If the Company is not transmitting all 911 calls to the correct answering point in areas where Selective Routers are utilized, a detailed explanation of why not.

Based on representations from its third-party vendor, once Yak completes interconnection with its wholesale VoIP provider, the Company will be transmitting all 911 calls to the correct answering point, based on the registered location supplied by the customer, in areas where selective routers are utilized.

4) The number of Selective Routers to which the Company has interconnected, directly or indirectly, as of November 28, 2005.

As explained in response to Item 2, Yak relies on CommPartners, who relies on Intrado, Inc. ("Intrado"), to provide its VoIP E911 solution. Yak does not interconnect directly with any selective routers, instead CommPartners, through Intrado, provides an E911 solution. As of the date of this filing, it is Yak's understanding that Intrado is interconnected to 154 Selective Routers, either directly or indirectly.

5) A detailed statement as to whether the Company is transmitting via the Wireline E911 Network the 911 caller's ANI and Registered Location to all answering points that are capable of receiving and processing this information.

Yak has long sought a means to provide E911 service to its customers. Because Yak's service is offered over the public Internet, however, Yak cannot limit the geographic locations from which its customers might use the service; therefore, a complete nationwide solution is required for E911 coverage. This poses a much greater challenge for Yak than is faced by traditional telecommunications carriers whose networks have a more defined geographic footprint. Even before the issuance of the *VoIP E911 Order*, Yak had investigated and determined that it would be logistically impossible for Yak to contact, negotiate, and contract with all the necessary parties to implement and manage a nationwide network-based E911 solution. Yak also contacted several third-party vendors offering limited geographic solutions and considered a number of different solutions offered by a variety of providers. However, there were a variety of limitations associated with each service offering, and it quickly became apparent that none of these vendors had complete solution.

After months of discussion, Yak entered into an agreement with CommPartners to provide an E911 solution. This service provides 911 service using direct call routing to PSAPs, including the use of 10-digit telephone numbers approved by the relevant PSAP. CommPartners,

November 28, 2005

Page 4

through Intrado, works with PSAPs to determine the appropriate telephone numbers for routing 911 calls. Although this service provides a number of solutions in the provision of E911 services, it is not a complete solution given the lack of complete coverage by Intrado's VoIP E911 network solution.

Further, deploying a ubiquitous VoIP E911 solution in 120 days is an incredibly difficult task. Adding new network interfaces, database management systems, and other network systems to allow for the provision of VoIP E911 is costly, time consuming, and administratively burdensome. Some network providers are wary of contracting to terminate E911 calls from telephone numbers that are not directly provisioned by them. Other network providers are willing to provide 911 services for third-party provided telephone numbers, but have many operational, commercial, testing and technical issues that need to be resolved. Such issues outside of Yak's control have been the most difficult to manage. Specifically, Yak has no alternative but to allow CommPartners, through Intrado, to deploy a wider VoIP E911 coverage area, but understands the complexities associated with this task. For example, PSAP testing requires coordination from numerous entities, and can be a time-consuming process requiring the coordination of numerous independent entities.

Another complicating factor is that CommPartners and Intrado are dependent on the efforts of third parties to deploy an E911 solution, including RBOCs and PSAPs. Circumstances beyond their control impact Yak's ability to deploy an E911 solution to its customers. For example, in order to deploy a VoIP E911 solution for nomadic VoIP services, Intrado requires access to pseudo-ANI ("p-ANI"). As described above and in multiple *ex parte* filings with the Commission,⁴ the lack of the appointment of an interim Routing Number Authority has made it impossible for Intrado to access p-ANI in certain areas of the country, impeding the deployment of a VoIP E911 solution. Also, Intrado reports that in certain areas, PSAPs are either declining or being advised to decline entering into agreements with VoIP providers due to the lack of legislation protecting VoIP providers and PSAPs from any liability that may result from mistakes that may arise in the routing or handling of 911 calls. As the Commission is aware, wireline and wireless carriers enjoy legal protection that insulate them from liability should emergency calls be mishandled. Neither CommPartners, Intrado nor Yak has the ability to resolve these issues.

The Commission also recognized in the *VoIP E911 Order* that the timeframe for requiring the deployment of an E911 solution was "aggressive."⁵ In fact, deployment of an E911 solution for a new technology within 120-days is without precedent. VoIP providers, third-party

⁴ See, e.g., *Ex Parte* Letter from Robert C. Atkinson, NANC Chair to Thomas Navin, Chief Wireline Competition Bureau, FCC (filed Sept. 8, 2005); *Ex Parte* Letter from David F. Jones, President, National Emergency Number Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-36 & 05-196 (filed Nov. 4, 2005); *Ex Parte* Letter from Tom Goode, Associate General Counsel, Alliance for Telecommunications Solutions', to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-36 & 05-196 (filed Nov. 2, 2005).

⁵ *VoIP E911 Order*, ¶ 37.

November 28, 2005

Page 5

solution providers, VoIP positioning companies, state and local E911 officials, and RBOCs are faced with unique issues to resolve. Additionally, there is no standard in place for the delivery of VoIP E911 calls.⁶ Further, each RBOC has demonstrated a different level of cooperation in deploying a VoIP E911 solution and has adopted different implementation procedures. The 120-day implementation timeframe has not allowed enough time for the industry to resolve all of these disparate issues in order to develop a comprehensive solution. Given the novel issues that arise in deploying a VoIP E911 solution, coupled with the 120-day timeframe, it was simply not possible for the industry to establish a comprehensive VoIP E911 solution.

6) The percentage of how many answering points within the Company's service area are capable of receiving and processing ANI and Registered Location information that the provider transmits.

As explained in response to Item 5, Yak's service area is potentially the entire world as the service is available from any location where a customer can obtain broadband Internet access. Pursuant to materials distributed by Intrado, it is Yak's understanding that 93% of the U.S. population is currently served by PSAPs operating off an E911 Selective Router. While the areas not served by a PSAP operating off an E911 Selective Router are not included within the *VoIP E911 Order* and are not required for compliance, it is Yak's understanding that Intrado is actively contacting these areas to determine technical options for VoIP E911 native call delivery.

Also, it is Yak's understanding that Intrado is currently aware of four States and a Territory that have native Selective Routing functionality but will only provide Automatic Number Identification ("ANI")-only service (not Registered Location information) to the PSAP. In New Jersey, Intrado has indicated that it has gained permission from the State to deploy a voice only service that enables the call taker to receive ANI on the VoIP 911 caller, but the State ALI system is not capable of full dynamic ALI updates and will require an upgrade. Intrado has indicated that Ohio and Hawaii have not granted permission to Intrado to deploy a voice only solution, and these States' ALI systems are not capable of full dynamic ALI update. Further, Intrado has indicated that Puerto Rico has not granted permission to Intrado to deploy a voice only solution, and the ALI systems are not capable of full dynamic ALI update.

7) The percentage of subscribers whose ANI and Registered Location are being transmitted to answering points that are capable of receiving and processing this information

Yak lacks information regarding the percentage of PSAPs able to receive and process ANI and Registered Location information. However, through Yak's discussions with

⁶ See *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, Reply Comments of NENA, WC Docket Nos. 04-36 & 05-196 (filed Sept. 12, 2005) (stating that NENA was still in the process of developing the standard, and has sought industry comments on a preliminary proposal).

November 28, 2005

Page 6

CommPartners, it is Yak's belief that as of January 2006, the Company will be transmitting ANI and Registered Location information, through its third party vendor, to entities able to utilize this information for approximately 71% of its customers.

- 8) **If the Company is not transmitting the 911 caller's ANI and Registered Location to all answering points that are capable of receiving and processing this information, a detailed explanation why not.**

Please refer to Yak's response to Items 5 and 6, above.

- 9) **To the extent the Company has not achieved full 911 compliance with the requirements of the *VoIP 911 Order* in all areas of the country by November 28, 2005, the Company should describe in detail, either in narrative form or by map, the areas of the country, on an MSA basis, where it is in full compliance and those in which it is not.**

Please see the attached map and spreadsheet distributed by Intrado demonstrating the planned schedule for achieving full 911 compliance.

- 10) **If not in full compliance, the Company's plans for coming into full compliance with the requirements of the *Order*, including its anticipated timeframe for such compliance.**

As noted above, Yak's plan for compliance necessarily relies on the efforts of its third party vendor, CommPartners, who is in turn relying on Intrado for implementation. CommPartner's and Intrado's projected timeframes for full compliance includes factors outside of these companies' control. Specifically, their timeframes may or may not be met based on the level of cooperation of PSAPs, RBOCs and state and local agencies involved in the deployment of E911 services. Further, access to pseudo-ANI, testing and deploying solutions reliant on pseudo-ANI depend on the activities by this Commission and the entities appointed to be responsible for assigning these resources. CommPartners cannot predict with certainty as to when it will have a fully compliant E911 solution in place for all of Yak's customers but based on the information currently available through Intrado, CommPartners, through Intrado, expects to deploy a nationwide solution in the next 18 months. However, there are certain areas in the country where CommPartners, through Intrado, will not have a VoIP E911 solution in place within this timeframe.

For nomadic VoIP services, to be in compliance with the Commission's *VoIP E911 Order*, Yak, through CommPartners, Intrado and other third-party solution providers, would have to have a solution deployed throughout the United States and its territories. Presently, there is no single provider and no way to aggregate solutions to achieve this result regardless of a particular company's resources, as it is technically infeasible to provide a VoIP E911 solution throughout the United States, its territories and possessions.

November 28, 2005

Page 7

- 11) **A detailed description of all actions the Company has taken to obtain each existing subscriber's current Registered Location and each new subscriber's initial Registered Location (including, but not limited to, relevant dates and methods of contact with subscribers and a quantification, on a percentage basis, of the number of subscribers from whom the Company has obtained the Registered Location).**

Prior to interconnecting with CommPartners and providing a 911 service to its existing VoIP customers, existing customers will be required to reconfirm their address and billing information and will be required to populate a 911 service address field that will include the customer's current Registered Location information.

As previously described, the Company has currently suspended offering two-way interconnected VoIP services to new customers until it is fully interconnected with CommPartners and able to provide a 911 solution. When the Company resumes its marketing activities, it will require customers to provide their Registered Location information prior to the initiation of service. Customers will be able to provide this information by two methods: (1) via logging onto the Company's website/webstore; or (2) via a call to the Company's customer service department. Updates to a customer's Registered Location information may be provided via these methods as well.

Company will offer its subscribers the option of updating their Registered Location using the VoIP telephone equipment that they use to access their interconnected VoIP service by dialing the Company's customer service department, as stated above.

- 12) **A detailed description of the method(s) the Company has offered its subscribers to update their Registered Locations. This information should include a statement as to whether the Company is offering its subscribers at least one option for updating their Registered Location that permits them to use the same equipment that they use to access their interconnected VoIP service.**

Please see the Company's response to Item 11, above.

- 13) **A detailed description of any technical solutions the Company is implementing or has implemented to ensure that subscribers have access to 911 service whenever they use their service nomadically.**

Based on information distributed by Intrado, it is Yak's understanding that it will not have a nomadic solution in place if the customer takes the VoIP service to a location in some markets within the top 20 MSAs and virtually any location outside of the top 20 MSAs in the continental United States. Yak's capability to provide nomadic VoIP E911 service is limited to Intrado's service footprint. Importantly, Yak is unaware of any third party provider that is offering a solution that will cover the entire United States (including Alaska and Hawaii), the territories and possessions. As noted above, Yak subscribers have the ability to update their Registered Location information with the Company and the Company, through customer

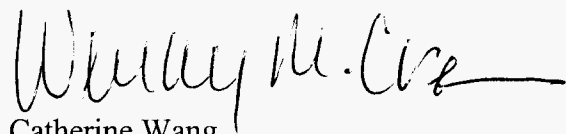
November 28, 2005
Page 8

education methods, will encourage customers to constantly update their Registered Location information as they use the service nomadically. If they provide a new Registered Location within Yak's VoIP E911 footprint, they will access to E911 functionality in compliance with the 4 *E911 Order*. If a customer provides a registered location outside of Yak's VoIP E911 footprint, Yak intends to suspend or disconnect service to that customer until such time as the customer relocates within Yak's VoIP E911 footprint.

- 14) **A description of any automatic detection mechanism that enables the Company to identify when a customer may have moved his or her interconnected VoIP service to a new location and ensure that the customer continues to receive 911 service even when using the interconnected VoIP service nomadically.**

Yak notes that the *VoIP E911 Order* specifically states that there is no requirement that VoIP providers provide an automatic detection mechanism to enable the providers to identify when a customer may have moved to a new location.⁷ Thus, although the *Public Notice* refers to plans submitted by AT&T, MCI, and Verizon claiming that those companies are developing such automatic detection mechanisms, Yak has no plans at this time to implement such a capability.

Respectfully submitted,



Catherine Wang
Wendy M. Creeden

Counsel for Yak Communications
(America), Inc.

cc: Byron McCoy (FCC)
Kathy Berthot (FCC)
Janice Myles (FCC)
Best Copy and Printing, Inc.
Benjamin Rovet (Yak)

⁷ *VoIP E911 Order*, ¶ 46 & n.146.

I, Benjamin Rovet, state that I am Corporate and Regulatory Counsel, of Yak Communications (America) Inc.; that I am authorized to submit the forgoing *VoIP E911 Compliance Report* ("*Report*") on behalf of Yak Communications (America) Inc.; that the *Report* was prepared under my direction and supervision; and I declare under penalty of perjury that the *Report* is true and correct to the best of my knowledge, information, and belief and as provided to me from Yak Communications (America) Inc.'s third-party VoIP E911 provider.



Name: Benjamin Rovet

Title: Corporate and Regulatory Counsel
Yak Communications (America) Inc.